

DD/M&S 74-2950

7 AUG 1974

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Exception to Permit Employment Processing

Sir:

1. I recommend your approval of the attached memorandum of 25 July 1974, which would permit the Office of Medical Services to employ a highly qualified physician [redacted] Both the Director of Security and the Director of Personnel have concurred [redacted] on this.

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2. As a separate related facet of this, I also feel quite strongly that the referenced regulation is unduly restrictive, and that the Deputy Director for Management and Services should be delegated the authority to approve these routine cases, where there is no substantive problem. I feel sure that completely adequate procedures could be established, with a sign-off by the sponsoring Deputy Director, so that there would be no abuse of this delegation, and certainly no erosion of security.

3. With your approval, I will sponsor a change in Headquarters [redacted] coordinating with the DDO, DDI, DD/S&T, OGC, IG, and other appropriate components.

STAT

h/w on orig:

Yes
/s/ WEC

/s/ John F. Blake

John F. Blake
Deputy Director
for
Management and Services

Att

Memo dtd 25 Jul 74 to DCI
via DD/M&S, D/Pers, D/Sec
fr D/MS; subj: Exception to
Permit Employment Processing
of [redacted]

MORI/CDF Pages 16 thru 42 and
pages 82 thru 85.

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cc: DDCI

EO-DD/M&S [redacted] (5 Aug 74)
Distribution:

Orig - Adse w/O&7 of Att (DD/M&S 74-2795)

1 - ER w/cy of Att

1 - DD/M&S Subject w/cy of Att

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Director of Personnel
5E 58 Hqs

Director of Security
4E 60 Hqs

Deputy Director for Management
and Services
7D 26 Hqs

Please be sure this is promptly returned to
the DD/M&S, before it goes forward to the DCI.

151 D
LJD

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Att: DD/M&S 74-2795

Executive Officer to the DD/M&S
7D 26 Hqs [redacted]

29 Jul 74

EO-DD/M&S [redacted] (29 Jul 74)
Distribution:

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- Orig RS - Adses (for return to DD/M&S w/O&7 of Att
- 1 - DD/M&S Subject w/cy of Att (ROS-HOLD)
- 1 - DD/M&S Chrono

DD/M&S 74-2795: Memo dtd 25 Jul 74 to DCI thru DD/M&S, D/Pers. D/Sec fr D/MS, subj:
Exception to Permit Employment Processing of [redacted]

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SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED		CONFIDENTIAL	
OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	<i>Ship</i>	<i>7/29</i>	<i>D</i>
2			
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	ACTION	DIRECT REPLY	PREPARE REPLY
	APPROVAL	DISPATCH	RECOMMENDATION
	COMMENT	FILE	RETURN
	CONCURRENCE	INFORMATION	SIGNATURE
Remarks: <i>First, lets get this request off</i> <i>by O/P + OS</i> <i>Second, on a follow up note an attempt</i> <i>going to the DCI, should request</i> <i>approval of the case, but also ask</i> <i>request to delegate the authority</i> <i>to the ODM+S, as long as the sponsoring</i> <i>DD has signed the request</i>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, A		DATE	
		<i>29 JUL 1974</i>	
UNCLASSIFIED		SECRET	

Approved For Release 2006/12/26 : CIA-RDP84-00780R006500010004-8

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DCI's Registry
The OAMP

OGC 64-3036

10 JUL 1964

MEMORANDUM FOR: Deputy Director of Central Intelligence

SUBJECT: Delegations of Authority to Executive
Director-Comptroller

1. You have requested our advice as to the authority for delegating to the Executive Director-Comptroller authorities now exercised only by the DCI and DDCI.

2. As you know, in early 1962 considerable work was done by this Office, in consultation with other Government agencies concerned, looking to the delegation by the DCI to the DDCI of the greatest possible range of authority. As a result of that study, the DCI, by memorandum of 2 April 1962, delegated to the DDCI "all authorities vested in me by law or by virtue of my position as Director of Central Intelligence and head of the Central Intelligence Agency, including, but not limited to, the certification authority set forth in Section 3(b) of the Central Intelligence Agency Act of 1949, as amended, except for any authorities the delegation of which is prohibited by law." This Office has taken the position that the only "authorities the delegation of which" by the DCI is prohibited, are:

(a) The authority under Section 132c of the National Security Act of 1947 to terminate employees of the CIA when the DCI shall deem such termination necessary or advisable in the interest of the United States; and

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4. The delegation to the DDCI of authority to certify expenditures of a confidential, extraordinary, emergency nature under Section 8(b) of the CIA Act represented a change in the practice theretofore followed. In working out this change with the Comptroller General, the latter based his ruling on the fact that the position of the DDCI was established by legislation and the incumbent was intended to substitute for and assist the DCI. In approving the delegation of authority concerning the admission of 100 persons, the Attorney General in the same manner relied on the statutory basis of the position of the DDCI and its inherent functions. Thus, further delegation of these functions to the Executive Director-Comptroller would seem inappropriate to the philosophy of the rulings by the Comptroller General and the Attorney General. It would follow that redelegation of all the other authorities delegated by the DCI memorandum of April 1962 (paragraph 3 above), except the administrative authorities of Sections 4, 5, and 8 of the CIA Act, would be barred by the reasoning above.

5. We believe there is no legal bar to the delegation of these administrative authorities, which concern travel, health and medical

services, and expenditures for the purposes specified in Section 3(a) of the CIA Act (copy attached), to the Executive Director-Comptroller or to the DD/S, or to subordinate officials. Many functions under these sections in fact have been so delegated by regulation or otherwise. It might be in order, however, to study the desirability of further delegations thereunder, and we would be glad to submit suggestions in that area.

6. Under HR 230-1 and three DDCI memoranda of late 1963 to Deputy Directors, effective control of the budgetary process and the system of project approval is retained in the DDCI. Certain projects and activities may be approved by Deputy Directors, namely those involving expenditures of not more than \$100,000, in the case of the DD/F, or not more than \$150,000, in the case of R&D activities (including those within the responsibility of the DD/F), and any which would involve a significant new policy consideration or for any other reason suggests the desirability of prior consideration at head-of-Agency level. While the standards for projects which require DDCI approval could be different from those we have adopted, we believe the existence of the confidential funds authority and the Comptroller General's view that it be exercised at least by the DDCI argue that the standards established are prudent ones. Also, I believe the \$100,000 level has been the standard followed for a number of years.

s/ Lawrence R. Houston

LAWRENCE R. HOUSTON
General Counsel

cc: Executive Director-Comptroller

OGC:RHL:ibm (10 July 1964)

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org. 73 0045

9 January 1973

MEMORANDUM FOR: Executive Officer to the Deputy Director
for Support

SUBJECT: Delegation of Authority

1. In 1971 at the request of the Deputy Director for Support, Mr. Brooks undertook a lengthy and difficult project to research the authorities delegated by the Director of Central Intelligence to individuals within the Agency. Mr. Brooks was to report on the current status of these delegations and recommend corrective action where required. In late 1971 Mr. Brooks sent us a rough draft of his report for our comments. Because of his death and the issues involved, we took it upon ourselves to try and finish this report.

2. This Office has devoted many hours of research and writing to the preparation of the attached memoranda. The first, a memorandum for the record, contains a study of the authorities delegated to the Director by Congress in legislation which specifically deals with the Agency and in legislation which generally empowers all heads of Government agencies with certain administrative and managerial authority. The second memorandum sets out the Director's 1 December 1950 (as amended on 18 January 1954) delegation of administrative authorities to the Deputy Director for Support (DDS) and to the directors of certain offices subordinate to the DDS. This memorandum shows that our current headquarters regulations do not contain many of the 1950 delegations. Attached as an annex to the second memorandum is a compilation of the authorities of the Director which have not been delegated by him in specific headquarters regulations. Some of these authorities, however, have been delegated by means of separate memoranda, but they have not been incorporated into the appropriate regulation(s).

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3. The question these papers ask is how and where does the Agency establish a chain of authority from the Director down to those who are actually exercising authority in his behalf. If the 1950 delegation is rescinded, the chain of authority will be broken. We feel that the 1950 delegations should be included in our headquarters regulations, but as the second memorandum and annex indicate, our regulations are not clear in and of themselves. As an interim solution, the Director might delegate an updated version of the authorities in the 1950 memorandum directly to the DDS, giving him the authority to redelegate and making the Director's delegation a part of the [] series. It would seem proper, however, that some consideration be given to a possible restructuring or reorganization of certain of our regulations.

4. As you are aware, our headquarters regulations are the guidelines by which the Agency operates and is managed. We have statements of no less than the United States Supreme Court to the effect that regulations properly promulgated have the effect of law, and that regulations prescribing procedures to be followed are binding upon the administrators who issue them.* While we feel work needs to be done on updating and revising our regulations, this requires a policy decision as to whether it will be done and, if so, how it will be done and who will do it.

5. As you can see this is an enormously complicated matter. We would be happy to discuss it with you in greater detail and assist in any way possible.

s/ John S. Warner

JOHN S. WARNER
Deputy General Counsel

Atts

AEG:ks

Distribution:

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✓ - DELEGATION OF AUTHORITY
1 - AEG Signer
1 - Chrono

*Service v. Dulles, 354 U.S. 363 (1957); United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260 (1954).

OGC 72-1532

18 October 1972

MEMORANDUM FOR THE RECORD

SUBJECT: The Authorities of the Director of Central Intelligence

1. This paper contains a study of the authorities delegated to the Director of Central Intelligence (DCI) by Congress. These authorities are found in legislation which specifically deals with the Central Intelligence Agency (CIA) and in legislation which generally empowers all heads of Government agencies with certain administrative and managerial authority. This paper discusses court decisions and principles of administrative law concerning the delegation and subdelegation of authority and then enumerates the authority delegated to the DCI in specific and general legislation.

I.

2. The best known and probably the most highly regarded treatise on Administrative Law in the United States is by Professor Kenneth C. Davis. This paper borrows liberally from this treatise in sketching out the present state of the law on delegation of authority.

3. Professor Davis begins the chapter on "Delegation of Power" by stating that, "Congress may and does lawfully delegate legislative power to administrative agencies." 1 Davis, Administrative Law § 2.01 at 75 (1958). Davis and other authorities in this field point to the language of a 1940 United States Supreme Court case as reflecting the present state of the law. The language used by the Court in that 1940 case was, "Delegation by Congress has long been recognized as necessary in order that the exertion of

legislative power does not become a futility." Sunshine Anthracite Coal Company v. Adkins, 310 U.S. 381, 398 (1940). Although there were a few United States Supreme Court cases during the 1930's wherein congressional delegations to public authorities were held invalid, the nondelegation doctrine has never carried much weight in federal law. Since 1940, federal courts have upheld congressional delegations of authority based upon the vaguest statutory statements of standards and have even gone so far as to uphold delegations which did not contain any legislative standards. On a few occasions, the United States Supreme Court has even released federal agencies from the standards provided in the statutes. Professor Davis suggests that Congress in its enabling legislation sometimes merely tells a federal agency to do what is in public interest, which is the practical equivalent of saying to it, "Here is the problem. Deal with it." 1 Davis at 82.

4. An examination of the three major pieces of legislation which specifically empower the Director shows that Congress has not chosen to fetter the work of the CIA by imposing strict statutory standards upon it. The three legislative enactments are: The National Security Act of 1947, as amended, 50 U.S.C.A. 402(a), 403, 405; the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C.A. 403a-c, e-h and j; and the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, 50 U.S.C.A. 403 Note. These laws delegate to the Director broad authority to accomplish the duties assigned to the Agency without in all cases either explicitly stating these duties or providing a statutory statement of standards to guide the Director in formulating policies and issuing implementing regulations. Nevertheless, these are valid delegations. As Davis demonstrates, Congress is not required to legislate as far as it reasonably can and delegations are valid without either standards or "intelligible principles." 1 Davis at 88. The United States Supreme Court once justified just such a delegation by saying, "Congress legislated on the subject as far as was reasonably practicable." Butterfield v. Stranahan, 192 U.S. 470, 496 (1940).

5. The National Security Act of 1947, as amended, establishes the National Security Council and, under it, the Central Intelligence Agency with a Director of Central Intelligence as its

head. One of the most important specific authorities given the Director by this Act is the authority to, in his discretion, terminate the employment of any Agency employee whenever "he shall deem such termination necessary or advisable in the interests of the United States..." 50 U.S.C.A. 403(c).^{*} A determination of the "interests of the United States" is left to the Director. The Director also acquires certain authorities by virtue of his position as head of an agency. These authorities are enumerated later in this paper.

6. The National Security Act of 1947, as amended, also provides for the position of a Deputy Director of Central Intelligence, who is authorized to act for and exercise the power of the Director in his absence or disability. 50 U.S.C.A. 403(a). This legislative grant of authority has been interpreted by the Comptroller General of the United States to mean that the Deputy Director may also assist the Director in the performance of his duties, including those vested by law in the Director. 41 Comp. Gen. 429. Therefore, it appears from this that any authority the Director exercises may upon a valid delegation from the Director be exercised by the Deputy Director even when the Director is not absent or disabled.

7. There must be some balance here, however. The Director cannot appear to have simply abrogated all his duties. This Office has taken the position that the Director should not delegate to the Deputy Director at least: (1) the authority under the National Security Act of 1947 to terminate employees of the CIA when the DCI shall deem such termination necessary or advisable in the interests of the United States; and, (2) the authority under the Atomic Weapons Rewards Act of 1955 for the DCI to serve on the Atomic Awards Board, empowered to render awards for information concerning certain activities regarding atomic energy. (There has been no use of this authority since its

^{*}Some duties of the Agency are enumerated at Section 102(d) of the Act. This Act also makes the DCI responsible for protecting intelligence sources and methods from unauthorized disclosure. See 15 OGC 199 (1962).

enactment.) Memo for DDCI fr General Counsel, Subj: Delegations of Authority to Executive Director-Comptroller, OGC 64-3036, dtd 10 July 1964.

8. The language of the National Security Act spells out some of the duties of the Agency in broad terms. The language implies that whatever additional standards may be imposed upon the Agency will be imposed by the National Security Council and that whatever regulations the Agency will operate under will be prescribed by the Director. For example, the Act states that the Agency shall perform "services of common concern" for the benefit of the intelligence community and "other functions and duties...affecting the national security as the National Security Council may from time to time direct." 50 U.S.C.A. 403(d)(4) and (5). Under this broad mandate, the Agency has been assigned duties and tasks by the National Security Council and has provided for their implementation by internal Agency regulations, authenticated by the DCI or the "executive of the Agency" (the Deputy Director for Support), without the sanction or approval of Congress.

9. The next piece of legislation, and perhaps the most important in terms of enumerating the specific authorities the Director may exercise, is the Central Intelligence Agency Act of 1949, as amended. By the language of this Act the Agency is authorized to exercise the authorities contained in section 2(c)(1), (2), (3), (4), (5), (6), (10), (12), (15), (17) and sections 3, 4, 5, 6, and 10 of the Armed Services Procurement Act of 1947, 62 Stat. 21, P.L. 80-413, February 19, 1947. The authority of the Agency is limited to the language of the sections as they read in 1947. Subsequent amendments to these sections are not applicable to the Agency. The Procurement Act of 1947 allows the "agency head" to negotiate purchases and contracts for supplies and services, without advertising, under certain specified conditions. Other sections stipulate procedures with respect to advertising for bids, types of contracts which may be negotiated, advance payments under negotiated contracts, liquidated damages, procurement for other agencies, joint procurement and the delegation of procurement responsibilities by the agency head. "Agency head" is defined in the CIA Act to mean the Director, the Deputy Director, or the Executive of the Agency (the Deputy Director for Support), and the CIA Act emphasizes the

authority of the "agency head" to delegate his powers under the Procurement Act. The CIA Act, however, specifically provides that the power of the "agency head" to make the determinations specified in section 2(c)(12) and (15) and section 5(a) shall not be delegable.** Therefore, only the Director, Deputy Director and Deputy Director for Support can make these decisions.

10. Similar authority, with the exception of procurement for other agencies and joint procurement, is provided for other Government agencies by the Federal Property and Administrative Services Act of 1949, as amended. Procurement authority available to the CIA includes this Act and all subsequent amendments to it.

11. Congress, in the CIA Act of 1949, as amended, also empowered the Director with unique authority in the matter of paying travel, allowances and related expenses of Agency employees assigned to duty stations outside the continental United States. For reasons not pertinent to the discussion here, the Director, utilizing the authority of sections 8(a)(2) and 8(b) of the CIA Act of 1949, as

**2(c) All purchases and contracts for supplies and services shall be made by advertising...except that such purchases and contracts may be negotiated by the agency head without advertising if--

* * *

(12) for supplies or services as to which the agency head determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed;

* * *

(15) for supplies or services as to which the agency head determines that the bid prices after advertising thereof are not reasonable or have not been independently arrived at in open competition. Provided, that.... (certain stipulations and conditions be met)

* * *

5(a) The agency head may make advance payments under negotiated contracts heretofore or hereafter executed in any amount not exceeding the contract price upon such terms as the parties shall agree: Provided, that.... (certain stipulations and conditions be met)

amended, approved the principle that the Agency may adopt the administrative authorities (except salary) of the Foreign Service Act, as amended, or of any other laws when it is determined by the Executive Director-Comptroller to be necessary for the proper administration of all employees of the Agency. Memo dtd 23 Aug 67 for DCI fr OGC and OLC, Subject: Legislative and Administrative Authority for Payment of Travel Expenses, Allowances, and Other Fringe Benefits to Agency Employees (OLC 67-0175). The basic principle involved in this adoption is to insure that travel expenses (and other benefits) provided to Agency employees are as favorable as those enacted for other Government employees in similar circumstances. Memo dtd 10 Oct 67 for DDS fr Executive Director-Comptroller, same subject as above (OGC 67-1935). Therefore, Agency foreign travel regulations are substantially similar to the Department of State Foreign Service Travel Regulations. The Director has subdelegated his authority to pay travel, allowances, and related expenses. The authority to approve certain unusual expenses, however, has been vested in the Deputy Directors and in the Heads of the Independent Offices and not further subdelegated.

12. In the payment of travel allowances and related expenses of Agency employees routinely assigned to duty stations within the continental United States, the Agency derives its benefits from the laws and regulations which apply to all other executive departments and follows these regulations, absent an unusual operational need. These regulations, issued by the Office of Management and Budget (OMB), include the Standardized Government Travel Regulations (A-7 /revised/), and the Regulations governing payment of travel and transportation expenses of civilian officers and employees of the United States (A-56 /revised/). With slight modifications, these OMB regulations are part of Agency headquarters regulations.

13. The next subheading of the CIA Act of 1949, as amended, is titled "General Authorities." The actions the Agency may take in the performance of its functions are enumerated here. The Director is mentioned as being the specific individual who authorizes couriers and guards to carry firearms when transporting materials affecting national defense and security, who authorizes rentals of and alterations to rented premises without regard to the limitations on such expenditures set by other legislation, who protects intelligence sources and methods from unauthorized disclosure, and who

(in conjunction with the Attorney General and the Commissioner of Immigration) determines that the entry of a particular alien into the United States for permanent residence is in the interest of national security.

14. The final subpart of the 1949 Act, "Appropriations," specifically requires that the Director establish policies for the transportation of employees and dependents in Government-owned vehicles under certain circumstances (detailed in the Act), and for the attendance of employees at Agency expense at professional meetings. Agency funds may also be spent for supplies, equipment, and personnel and contractual services otherwise authorized by law and regulations, when approved by the Director. Finally, Agency funds may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds, when such expenditures are for objects of a confidential, extraordinary, or emergency nature. These expenditures are accounted for solely on the certificate of the Director. 25X1

25X1

15. The authority to account for the expenditure of funds as well as the authority to approve the entry of certain aliens into the U.S. for permanent residence was first delegated by the Director to the Deputy Director in about 1962. [REDACTED]

[REDACTED] contains the most recent and much broader delegation of authority to the DDCI. This regulation, dated 1 November 1966, reads as follows:

I hereby delegate to the Deputy Director of Central Intelligence all authorities vested in me by law or by virtue of my position as Director of Central Intelligence and head of the Central Intelligence Agency, including, but not limited to, the certification authority set forth in section 8(b) of the Central Intelligence Agency Act of 1949, as amended, except for any authorities the delegation of which is inconsistent with applicable law.

All other delegations of authority currently in force remain valid to the extent they are not inconsistent with this delegation.

25X1

25X1

16. This delegation continues in force regardless of changes in the position of the Director and/or Deputy Director. *** Despite this delegation of authority, Agency headquarters regulations continue to state that the Director is the certifying authority [] and the approving authority to effect entry into the United States for certain aliens []. Since headquarters regulations are the guidelines by which the Agency operates and is managed, it would seem appropriate that specific regulations indicate the person or persons to whom authority has been delegated.

17. It might be worth-while reiterating at this point that the Agency is exempted from a number of laws applicable to other Government agencies, such as the Classification Act. In the case of terminations under section 102(c) of the National Security Act of 1947, the Director is not subject to the Veterans' Preference Act. While subject in normal circumstances to such acts as the Federal Property and Administrative Services Act and the Government Employees' Training Act, both of these acts provide for exemptions to meet Agency needs. Agency employees are also entitled to the benefits of the Federal Employees' Compensation Act and the Federal Employees' Government Life Insurance Act. With both programs, however, the Agency has worked out special arrangements to protect security. The Federal Employees' Health Benefits Act permits the Agency, among others, to conduct its own program. Finally, all reporting requirements on information pertaining to the Agency are lifted by section 6 of the CIA Act of 1949, as amended. 13 OGC 203 (1960).

18. The DCI's authorities under the Agency's Retirement Act of 1964 for Certain Employees are clearly set forth in the Act, as amended, which can be found in the statutes at large and as a note to 50 U.S.C.A. 403. The OGC-produced Guide to CIA Statutes and Law (unclassified) also contains the Act, as amended, and with annotations. [] implements this Act.

***This Office has suggested that delegations of authority in effect on the date a new Director takes office continue in force even in the absence of a new directive which says they do. 18 OGC 138 (1965).

regulatory boards; (b) the utilization of available property; (c) the disposal of surplus property; and (d) records management. 40 U.S.C.A. 471.

Elsewhere in its general provisions, the Act states that, "Nothing in this Act shall impair or affect any authority of--... (17) the Central Intelligence Agency...." 40 U.S.C.A. 474.

21. For most of the Act, as amended, Congress has provided that the Administrator of the General Services Administration (GSA) will prescribe the policies and methods of procurement and supply or will procure and supply (for example, personal property and non-personal services--40 U.S.C.A. 481(a)) or will prescribe regulations under which certain work may be done (for example, the installation, repair, and replacement of sidewalks around buildings--40 U.S.C.A. 490(i)). The Act also provides for the Administrator to delegate and to authorize successive redelegation of any authority transferred to or vested in him by the Act (with certain restrictions) to the head of any other Government agency or to designate and authorize any executive agency to perform such function(s) for itself. 40 U.S.C.A. 486(d) and (e)(2).

22. Another part of this Act, as amended, is found at Title 41, Chapter 4, "Procurement Procedures." The provisions of this chapter are applicable to purchases and contracts made by GSA or "any other executive agency in conformity with authority to apply such provisions delegated by the Administrator in his discretion." 41 U.S.C.A. 252(a). The agency head is authorized to redelegate the powers delegated to him by the Administrator, GSA except as provided at 41 U.S.C.A. 257(b). 41 U.S.C.A. 257(a).

23. A third part of this 1949 Act which is of importance to the CIA is found at Title 44, Chapter 31. This chapter provides that the head of each federal agency "shall establish and maintain a records management program and 'make and preserve' records of his organization in order to 'protect the legal and financial rights of the Government and of persons directly affected by the agency's activities'." 44 U.S.C.A. 3101 and 3102.

24. With the probable exception of the provisions found at Title 44, Chapter 31, the DCI can, in most cases, only exercise the authority found in the Federal Property and Administrative Services Act, as amended, when the Administrator, GSA has redelegated his authority either to all heads of agencies or specifically to the Director of Central Intelligence.

25. The Administrative Expenses Act of 1946 was benchmark legislation for it relieved heads of Government departments and agencies of the ordinary and routine day-to-day problems associated with the management of personnel under them. This Act represented the first attempt to provide a Government-wide method of dealing with, for example, the expenses of travel of employees, the transportation of dependents, the shipment of an employee's personal and household effects, and the payment of expenses for persons appointed for duty in overseas areas. This Act also permitted the head of a department or agency to delegate to his subordinates the authority to take final action on matters pertaining to the payment of the above mentioned expenses which fall under matters pertaining to the employment, direction and general administration of personnel. The Act also allowed the delegation to subordinates of the authority to publish certain advertisements, notices or proposals in regard to employment or contracts with the department or agency.

26. Subsequent amendments to the original Act broadened the law by increasing the number and type of expenses paid on a Government-wide scale and making final action on these expenses likewise delegable. The Eighty-First Congress provided for the payment of expenses associated with the evacuation of civilian employees and/or their families from posts of duty in foreign countries for military or other reasons, and also provided for the protection of the Government in cases where it paid the expenses of certain civilian employees to posts of duty abroad. Congress also authorized departments and agencies to pay a mileage allowance to civilian employees to cover the cost of transporting house trailers from one official duty station to another in the continental United States.

27. The Eighty-Sixth Congress passed two key amendments to the Administrative Expenses Act. The first broadened the coverage of the existing law relating to the payment of travel and transportation costs of certain new civilian employees and made permanent a program for the payment of travel and moving expenses of certain prospective employees (scientists and engineers) for whom the Civil Service Commission determined that there was a manpower shortage and that their skills were critical to the national security effort. The second amendment, called the Overseas Differential and Allowances Act, established a uniform system of allowances for federal employees in overseas posts, regardless of the agency for which they worked. This legislation, which amended the Foreign Service Act and the CIA Act, extended the benefits then authorized only for foreign affairs agencies to the government in general and established a limited number of new benefits for all. Finally, this legislation established a "special transfer allowance" for extraordinary, necessary and reasonable expenses not otherwise compensated for. Congress later authorized the departments and agencies to pay travel and transportation expenses to student trainees when assigned to positions for which the Civil Service Commission had determined that there was a manpower shortage.

28. The last really major addition to the Act occurred when the Eighty-Ninth Congress provided for the reimbursement of federal employees for certain moving and storage expenses incurred when transferred from one official duty station to another in the interest of the United States (within the United States).

29. The language of the Administrative Expenses Act which allows the department or agency head to delegate routine personnel administration to his subordinates is now found at 5 U.S.C.A. 302 and reads as follows:

In addition to authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him.

- (1) by law to take final action on matters pertaining to the employment, direction and general administration of personnel under his agency

(2) by (440 U.S.C.A. 324) to authorize publication of advertisements, notices or proposals. 5 U.S.C.A. 302.

30. Congress has also passed other legislation which grants heads of agencies additional authorities to assist them in their administrative and managerial duties. Most of these laws, like much of the Administrative Expenses Act of 1946, have been codified at Title 5. The following discussion touches on some of the more important of the sections of Title 5.

31. An individual appointed to an office of honor or profit in the civil service is required to take an oath of office. 5 U.S.C.A. 331. This oath, which is incident to entrance into the executive branch, may be administered by an employee of an executive agency designated in writing by the head of the agency to administer this or any other oath required by law in connection with this employment. 5 U.S.C.A. 2903(b). All persons accepting employment with the United States Government must file an affidavit stating that his or her employment will not violate 5 U.S.C.A. 7311, which deals with loyalty to the United States Government and with strikes against the Government.

32. Each agency is authorized to employ whatever number of employees of the various classes recognized by chapter 51 of Title 5 as Congress may appropriate for each year. Chapter 51 covers the classification of positions within an agency and although the CIA has been specifically excluded from the Classification Act, the CIA has indicated to the Civil Service Commission that it intended to adhere to this system in substantially the same manner as provided for other agencies. Letter from DCI to Chairman, Civil Service Commission, dated 10 August 1949.

33. There are a number of restrictions on the types of persons the head of an agency may employ. For example, a head of an agency may not employ an attorney to conduct litigation in which the United States or the agency is a party (5 U.S.C.A. 3106), nor may an agency head use appropriated funds to pay the salary of a publicity expert (unless the funds are approved for that purpose) (5 U.S.C.A. 3107), nor may an agency head employ individuals

employed by detective agencies (5 U.S.C.A. 3108). The head of an agency is permitted to employ without pay a reading assistant for a blind employee or to hire and pay clerical assistance for a blind employee. 5 U.S.C.A. 3102(b) and (c). In addition, only the head of the agency concerned may restore to duty an employee suspended or removed in the interest of national security. 5 U.S.C.A. 3571 and 7532.

34. Congress has also provided that the head of each agency "shall establish, operate and maintain" a program or programs for the training of employees by, in and through Government or non-Government facilities. 5 U.S.C.A. 4103. The President has excluded the CIA from certain of the provisions of the Government Employees Training Act, codified at 5 U.S.C.A. 1308 and 4101-4118. Executive Order 10805, February 18, 1959. The Training Act repealed section 4 of the CIA Act of 1949, which authorized a CIA training program. The provisions of the Training Act from which the CIA has been excluded are those which require the CIA to follow the regulations prescribed by the Civil Service Commission, those which impose limits upon the nature or type of training, and those which require an agency to submit reports of its training program(s).

35. Heads of agencies may also establish incentive awards programs, including the payment of cash awards to employees. Each agency head may pay a cash award not to exceed \$5,000 to an employee for an extraordinary act or service or for an invention, suggestion or accomplishment which results in the improvement of Government operations. Awards may also be made to former employees whose act or service was made or performed while in the employ of the Government. 5 U.S.C.A. 4502-03 and 4505.

36. Chapter 53 of Title 5 covers pay rates and pay systems. The salaries of the Director and Deputy Director of Central Intelligence are provided for at sections 5313 and 5314, respectively. The CIA need not adhere to the pay rates set forth in the general schedule (5 U.S.C.A. 5331-38) since this schedule applies only to those employees covered by chapter 51 (classification of positions) and the CIA has been specifically excluded from the provisions of the Classification Act. Here again, however, the CIA has usually

adhered to the pay rates set forth in the general schedule for its staff employees.

37. One of the lengthiest chapters in Title 5 is Chapter 55, dealing with the administration of employees' pay. Subchapters here cover such administrative problems as withholding pay, advancements, allotments and assignments of pay, dual pay and dual employment, premium pay, payment for accumulated and accrued leave, payments to missing employees, settlement of accounts and severance and back pay. There appears to be no specific exclusion from these provisions for the CIA. In several places, however, such as at section 5504(c), the law states that the Civil Service Commission may prescribe regulations necessary for the administration of the subchapter. Generally, the CIA is not required to adhere to the Commission's regulations where they would interfere with or impose undue burdens upon the peculiar operational needs of the Agency.

38. Although the provisions of the Federal Employees' Pay Act of 1945, as amended, apply to all federal employees except those specifically listed in the legislation as exempted, Civil Service Commission regulations have exempted the CIA from the application of the Commission's regulations pertaining to overtime. Federal Personnel Manual, Supp. 990-1, Book III, Sec. 550.101(b)(7). Moreover, under section 8 of the CIA Act of 1949, as amended, the Director of Central Intelligence has the independent authority to pay for personal services without regard to any other law.*****

39. A few additional sections in Chapter 55 are also noteworthy. These sections call for the head of an agency either to make determinations concerning the indebtedness of or an overpayment to an employee or to prescribe regulations to carry out a particular section or sections of Chapter 55. Examples of these authorities can be found at sections 5514 (installment deduction for indebtedness because of erroneous payment), 5522-27 (advances, allotments and assignment of pay), 5543 (compensation time off), 5545 (night, Sunday, standby, irregular and hazardous duty differential), and 5563-67 (payments to missing employees).

*****Contra, Opinion of the Office of General Counsel, CIA, dtd Jan. 6, 1955 by Mr. Feehan; See, Byrnes v. United States, 330 F. 2d 986 (163 Ct. Cl. 167) (1963).

40. The twelve chapters of Title 5 which follow Chapter 55 are concerned with employees' attendance, leave, suitability, conduct, insurance and retirement. Sprinkled through these chapters are numerous references to the authorities of an agency head to establish, develop, or support programs which provide services to or protection for employees. Examples of programs which come within these authorities are the health services and safety programs (sections 7901-02), the Workmen's Compensation Plan, the Civil Service Retirement Program, and the various health insurance programs.

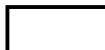
41. The last law to be discussed in this paper concerns the authority of the head of an agency to settle certain employees' claims. In 1964, Congress extended to the heads of other agencies the authority then possessed by the heads of the military departments to settle employees' claims for loss of or damage to personal property when the loss or damage is incident to Government service. This legislation, the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, has been codified at 31 U.S.C.A. 240-243. (This Act repealed 10 U.S.C.A. 2732 and 14 U.S.C.A. 490 and amended 10 U.S.C.A. 2735.) Under section 241(b)(1), subject to such policies as the President may prescribe and such regulations as the head of an agency may prescribe, the agency head or his designee may settle and pay a claim for not more than \$6,500 for loss of or damage to property incident to an employee's Government service. The employee's property may also be replaced in kind.

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Office of General Counsel STATINTL

cc: EO/DDS

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STATINTL

Delegation of Authority

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OGC Has Reviewed

5 January 1973

MEMORANDUM FOR: [REDACTED]

STATINTL

SUBJECT: Delegation of Authority

STATINTL

1. As you know I have done extensive research during the past several months on the authorities delegated to the Director of Central Intelligence (DCI) by Congress and the redelegation of these authorities by him. I found the existing redelegations either in Agency headquarters regulations or in separate memoranda, some of which have not been incorporated into the regulations. The purpose of my research was to follow up on the work begun by the late [REDACTED]. He had started to research these redelegations by the Director and had prepared and sent to this Office for our comments a rough draft of his report which recommended certain actions.

STATINTL

2. [REDACTED] focused upon delegations of authority by the Director to specific individuals which enables these individuals to carry out Agency-wide functions, not functions pertaining to a single Directorate. Some delegations by the Director which enable a single Directorate to do its job, such as the authority to authorize overtime, have been so extensively subdelegated that it is almost impossible to trace the chain of authority. Therefore, it does not seem practical at this time to focus on anything other than the authorities to carry out Agency-wide functions and how and to whom they may have been delegated by the Director.

STATINTL

3. Headquarters (and field) regulations are the guidelines by which the Agency operates and is managed. I agree with [REDACTED] statement that these regulations are the proper vehicles to disseminate a basic delegation of authority. As [REDACTED] points out, prior to the issuance of a formal, single

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set of Agency regulations, the DCI on 1 December 1950 signed a broad delegation of his administrative authorities to the Deputy Director for Administration (now the Deputy Director for Support) and further subdelegated some of these authorities to certain elements of that Directorate (Comptroller, Finance, Logistics and Personnel). The DCI revoked some and amended others of these delegations in an 18 January 1954 memorandum. I agree with [] that the 1950 memorandum, as amended, has never been revoked. I am also of the opinion that our current regulations do not contain delegations of all the provisions of the 1950 memorandum, as amended. Our regulations lack a clear delegation or subdelegation of many of these authorities, such as the one allowing the Director of Personnel to authorize permanent changes of station for staff employees. There are also about fifty authorities which the DCI has specifically reserved to himself and not delegated in headquarters regulations.

4. As a result of my research, a problem has surfaced which I think is worthy of some consideration. I believe that from the administrative, managerial, and possibly legal standpoint, our headquarters regulations need revision. Delegations and subdelegations of authorities are scattered throughout the regulations. I have found them tucked in statements of office functions and "hidden" among substantive sections, such as those dealing with types of and eligibility for allowances. It appears that much needs to be done to straighten out our regulations; however, this requires a policy decision as to whether it will be done, and if so, how it will be done and who will do it. STATINTL

5. In the remainder of this paper each of the 1950 delegations, as amended, is listed along with a statement of the person(s) to whom the authority is delegated by the 1950 memorandum, as amended, and the number of the present day regulation, if any, where this delegation is found.

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Next 7 Page(s) In Document Denied

TAB

DD/M&S Registry
File Q4 M8

DD/M&S 73-4665

6 DEC 1973

MEMORANDUM FOR: Acting General Counsel

SUBJECT : Delegations of Authority

REFERENCE : Third draft of proposed delegations of authority
att to RS dtd 12 Nov 73 to EO-DD/M&S fr Acting GC

John:

Since our comments are becoming fewer and of less significance it seems obvious that your staff is making considerable progress with the delegations of authority paper. Here are a few more comments for you to consider.

Re paragraph B. -- The M&S Directorate would find this arrangement imminently satisfactory and desirable, but I am sure the DDO would have objections where Field Regulations are involved. As you know, DDO now authenticates all regulatory issuances sent to the field. (This might be an interesting point to discuss with the Director since he has recently indicated that the DD/M&S is responsible for the general administration of the Agency. And, certainly most regulations, including FRs, pertain to management and services and are originated in this Directorate).

Re paragraph C.6. -- The authority described here could be confused with authorities delegated to the Director of Logistics as the Agency's contracting officer. Perhaps, it could be reworded to indicate that it applies only to personnel and the facilities and services directly supporting them.

Re paragraph C.7. -- This delegation of authority seems to cover all contingencies except one, namely, the authority to deviate where operationally necessary from established differentials or allowances.

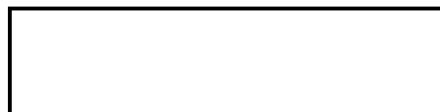
Re paragraph C.14. -- We question whether the Director of Personnel should be delegated the authority to approve voluntary retirements since he is Chairman of the Retirement Board and would, in effect, control the retirement system. Might it not be prudent to have this authority delegated only to the DD/M&S?

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Re paragraph C.27. -- I believe this authority could be better stated. Actually, we probably want to say that permission can be granted to an employee to remain in the employ of the Agency after he or she has declared the intention to marry a non-U.S. citizen but before the actual marriage ceremony occurs.

Re the concluding paragraph under C. -- While we understand the rationale for clarifying the authorities of an "Acting" DD/M&S, we still feel that an additional delegation should be given to either the Associate DD/M&S or provision made for the DD/M&S to delegate most of his responsibilities to a single senior subordinate. To do otherwise will require the DD/M&S to devote valuable time acting on relatively routine matters that his deputy should handle.



Acting Deputy Director
for
Management and Services

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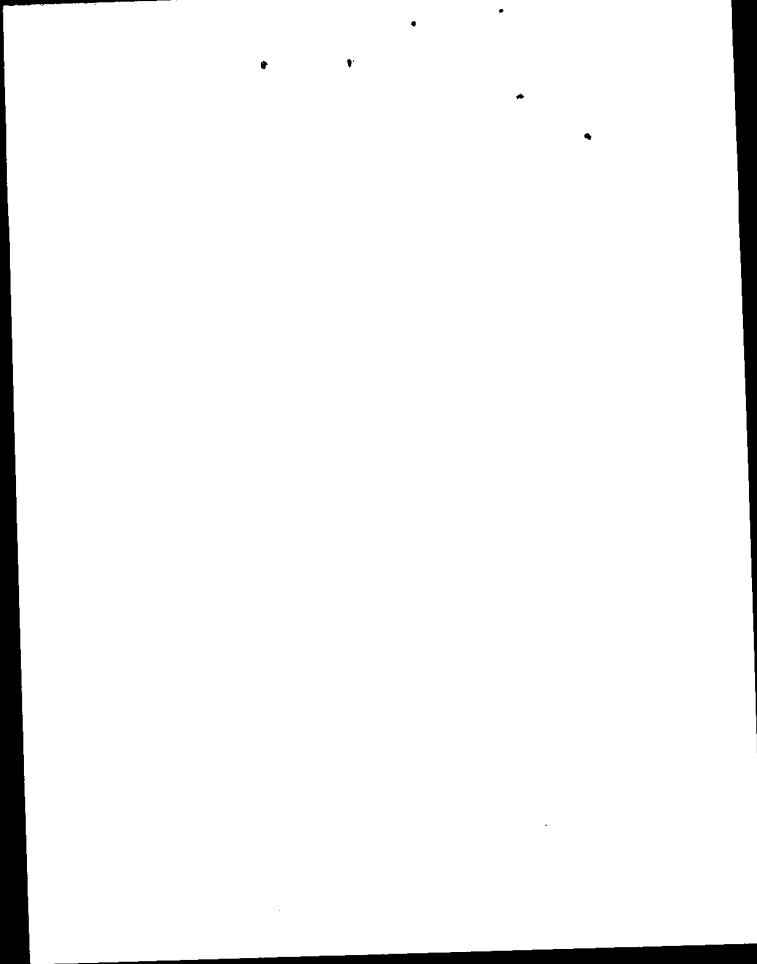
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By virtue of the authority vested in me as Director of Central Intelligence and head of the Central Intelligence Agency, I direct that:

A. All authority vested in me, ¹ except for any authority the delegation of which is inconsistent with applicable law, ² is hereby delegated to the Deputy Director of Central Intelligence. This authority includes:

1. the authority to certify for the expenditure of funds as set forth in Section 8b of the Central Intelligence Act of 1949, as amended;

¹ The National Security Act of 1947, as amended, provides for the position of a Deputy Director of Central Intelligence, who is authorized to act for and exercise the power of the Director in his absence or disability. This legislative grant of authority has been interpreted by the Comptroller General to mean that the Deputy Director may also assist the Director in the performance of his duties, including those vested by law in the Director. Therefore, the Director may prescribe certain areas in which the Deputy Director will take final action.

² The General Counsel has taken the position that the Director should not delegate to the Deputy Director at least: (1) the authority under section 102(c) of the National Security Act of 1947, as amended, to terminate employees of the CIA when the DCI shall deem such termination necessary or advisable in the interests of the United States; (2) the authority under the Atomic Weapons Rewards Act of 1955 for the DCI to serve on the Atomic Awards Board, empowered to render awards for information concerning certain activities regarding atomic energy; and, (3) the authority under the CIA Retirement Act of 1964 for Certain Employees, as amended, to retire employees involuntarily; and, (4) the authority to determine that classified information and material originating within the Agency shall not become automatically declassified at the end of thirty full calendar years from date of original classification. (Sec. 5(E) of E.O. 11652, March 8, 1972.)

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2. the authority to determine that the entry of a particular alien into the U.S. for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission (Section 7 of the CIA Act of 1949, as amended);
3. the authority to certify that the alterations, improvements, and repairs on premises rented by the Agency and the rental expenses of such premises beyond the limit set by the Act of June 30, 1932, as amended, are necessary to the successful performance of the Agency's functions or to the security of its activities (Section 5(e) of the CIA Act of 1949, as amended);
4. the authority to designate couriers and guards to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security (Section 5(d) of the CIA Act of 1949, as amended);
5. the authority to approve the initial appointment and assignment of a temporary, reserve, or staff employee above the grade of GS-15;
6. the authority to approve the promotion or transfer of a temporary, reserve, or staff employee above the grade of GS-15;
7. the authority to approve the awarding of the Distinguished Intelligence Cross, the Distinguished Intelligence Medal, the Intelligence Star, the Intelligence Medal of Merit, and the Career Intelligence Medal;
8. the authority to grant suggestion and invention awards between \$1,000 and \$5,000;
9. the authority to grant a substitute separation compensation;
10. the authority to determine whether an individual receiving substitute separation compensation has breached his security and/or cover agreement; and,

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11. the authority to authenticate or approve the issuing, revising, or rescinding of Agency regulations which require the authentication or approval of the Director.

No authority delegated to the Deputy Director of Central Intelligence shall be subdelegated by him.

B. There is hereby delegated to the Deputy Director for Management and Services the authority to provide for the general administration of the Central Intelligence Agency, to include the general administration and supervision of all personnel, through the publishing of all Agency regulatory issuances which do not require the authentication of the Director. There is also delegated to the Deputy Director for Management and Services the authority to revise or rescind all regulatory issuances which do not require the authentication or approval of the Director.

C. There is hereby delegated to the Deputy Director for Management and Services the authority necessary to supervise the general administration of all personnel. This authority includes:

1. the authority to appoint and assign staff employees, except specially qualified scientific personnel, up to and including the grade of GS-15, to reassign such employees from one position or career service to another, and to promote such employees up to and including the grade of GS-15;
2. the authority to appoint all employees of the Agency to Career Employee status, to approve all separation payments, and to make all determinations and payments authorized by the Missing Persons Act;
3. the authority to appoint retired Agency employees, other retired U.S. Government civilian employees, and retired members of the U.S. Armed Forces as temporary, reserve, or staff employees, except specially qualified scientific personnel, up to and including the grade of GS-15;

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4. the authority to approve recommendations of the Recruitment Advertising Committee in connection with proposed advertisements or other releases, regardless of attribution to the Central Intelligence Agency, which offer employment with the Agency;
5. the authority to execute, amend, renew, and terminate contracts for employment, personal services, independent contractors and agents;
6. the authority to execute, amend, ^{renew,} and terminate contracts for services and facilities directly related to the support of operations;
7. the authority to approve the payment of salaries, allowances and differentials, including the authority to grant or terminate non-official cover premium pay and to establish differentials and allowances for employees stationed at posts in foreign areas where the Department of State has not established any differentials or allowances and where operational or security requirements prevent the Agency from asking the Department to establish such differentials and allowances;
8. the authority to transfer all employees and detailees from one official duty station to another and to approve the payment or reimbursement of all lawful expenses incident to transfer, and the authority to approve non-standard tours of duty;
9. the authority to approve the return of personnel prior to the completion of their overseas assignments and to waive all or part of an employee's service abroad agreement;
10. the authority to grant exceptions to travel plans calling for less than 20 workdays of leave, or leave and temporary duty, in the United States, its possessions, or the Commonwealth of Puerto Rico when the employee is returning to an assignment outside the United States immediately after home leave;

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11. the authority to direct temporary duty travel and to approve the payment or reimbursement of all lawful expenses incident to this travel;
12. the authority to approve travel advances;
13. the authority to establish and to administer all health and insurance programs;
14. the authority to approve voluntary retirements for employees between 50 and 60 years of age who are covered by the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended;
15. the authority to approve requests for extensions of scheduled or mandatory retirement dates for periods not to exceed 60 days;
16. the authority to waive, up to 18 months, the time limitation upon the payment of travel and transportation expenses of a retiree, his dependents, and his personal effects to the place where he will reside in the U.S. or its possessions;
- R 17. the authority to approve the initial appointment, all promotions and all transfers of specially qualified scientific personnel up to and including the grade of GS-15;
- ✓ 18. the authority to approve the compensation for contract employees, independent contractors, and agents in excess of the maximum annual rate for grade GS-15;
- ✓ 19. the authority to approve the use of individuals as consultants and to approve compensation in excess of the maximum annual rate for grade GS-15;
- ✓ 20. the authority to approve exceptions for temporary, reserve, or staff appointments for personnel over 60 years of age;

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- 21. the authority to approve exceptions to mandatory retirement at age 60 for employees under the Civil Service Retirement System and under the Central Intelligence Agency Retirement System;
- 22. the authority to adopt the administrative provisions (except salary) of the Foreign Service Act, as amended, or the provisions of any other applicable law when it is determined to be necessary for the proper administration of all employees of the Agency;
- 23. the authority to pay or reimburse an employee for expenses incurred or benefits lost when an employee because of operational or security requirements cannot receive the benefits which other Agency employees are lawfully entitled to receive;
- 24. the authority to reimburse employees for housing when determined to be in the best interests of the Agency, and to determine the per cent contribution by the Agency to this housing, and the authority to pay for housing determined to be essential to either operational or representational needs and to determine the per cent contribution of employees to housing procured for these needs;
- 25. the authority to furnish employees housing and to determine the percentage of the housing costs to be contributed by employees;
- 26. the authority to approve an employee's claims for damages to losses of personal property, and to approve an employee's claim for damages and/or losses to Government-controlled property when the liability of the employee is confirmed by a Board of Survey;
- 27. the authority to grant permission ^{to an} for an employee to remain in the employ of the Agency ~~before the~~ employee's marriage to a non-U.S. citizen; ^{who intends to marry a non U.S. citizen}

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- ✓ 28. the authority to approve the awarding of Honor and Merit Awards, except for the Distinguished Intelligence Cross, the Distinguished Intelligence Medal, the Intelligence Star, the Intelligence Medal of Merit, and the Career Intelligence Medal; and,
- 29. the authority to grant suggestion and invention awards up to and including \$1,000.

The authority delegated in subparagraphs 1 through 16 is hereby delegated to the Director or Acting Director of Personnel. The authority delegated in subparagraphs 18, 19, 20, 21, 22, 23, 27 and 28 shall be exercised only by the Deputy Director or ~~Acting~~ Deputy Director for Management and Services. The authority delegated in subparagraphs 17, 24, 25 and 26 may be delegated to a single senior subordinate and shall not be further subdelegated. The authority to grant cash awards less than \$1,000 set forth in subparagraph 29 may be subdelegated; provided, only a single senior subordinate may be subdelegated the authority to grant a cash award of \$1,000. | 7.001

D. There is hereby delegated to the chief of each domestic base and foreign station the authority necessary to supervise the general administration of personnel whose official duty station is located within the particular jurisdiction. This authority includes:

- 1. the authority to make non-staff appointments; and to authorize the payment of the salaries and allowances of such employees;
- 2. the authority to direct temporary duty travel and to authorize the payment or reimbursement of all lawful expenses incident to this travel;
- 3. the authority to approve travel advances; and
- 4. the authority to execute, amend, and terminate contracts for personal services.

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The authority delegated above is hereby delegated to chiefs of foreign bases and to a single senior subordinate within each foreign station and each foreign and domestic base who may act for the chief of station or base in the exercise of this authority. This authority shall not be sub-delegated. The authority delegated in this paragraph shall be subject to such restrictions and procedures as may be prescribed by Agency regulations.

E. There is hereby delegated to the Director or Acting Director of Personnel the authority to terminate the employment of an individual within the first 12 months of his employment by the Central Intelligence Agency. This authority shall not be subdelegated.

F. There is hereby delegated to the following personnel the authority to administer the oath of office incident to entrance into the executive branch of the United States Government or any other oath required by law in connection with employment therein:

Deputy Director for Management and Services
Associate Deputy Director for Management and Services
Director of Personnel
Deputy Director of Personnel
Executive Assistant to the Director of Personnel
Chief, Staff Personnel Division, Office of Personnel
Chief, Contract Personnel Division, Office of Personnel
Appointment Clerks, Office of Personnel
Chiefs of Station and Base and their properly designated
Senior Administrative Officers.

The authority delegated above shall be exercised by the incumbents of these offices as of the date this delegation is effective and shall be exercised in the future by those acting for the above named personnel. This authority shall not be subdelegated.

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For the information of readers, the authority delegated in paragraph C is now being exercised by the following (according to headquarters regulations):

- C.1. D/Pers
- 2. D/Pers
- 3. DCI
- 4. DDM&S (delegated by him to D/Pers)
- 5. D/Pers and DCI
- 6. D/Pers (D/Fin)
- 7. D/Pers (D/Fin)
- 8. D/Pers (D/Fin)
- 9. D/Pers
- 10. D/Pers
- 11. D/Pers (D/Fin)
- 12. D/Pers (D/Fin)
- 13. D/Pers
- 14. DCI
- 15. D/Pers
- 16. D/Pers and SSA/DDM&S
- ✓ 17. DCI
- ✓ 18. DCI
- ✓ 19. DCI
- ✓ 20. DCI
- ✓ 21. DCI
- ✓ 22. ExDir - Comptroller
- ✓ 23. New
- ✓ 24. DDM&S
- ✓ 25. DDM&S
- ✓ 26. DCI
- ✓ 27. DCI
- ✓ 28. DCI
- 29. DDM&S

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As you can see, the DCI has been relieved of making certain administrative determinations that at present only he can make. Therefore, in delegating this authority to the DDM&S, it becomes the responsibility of the DDM&S personally to make these determinations.

The following are our responses to oral or written comments we have received from O/DDM&S, O/Pers, and O/Fin.

The limits of A. 5. (and newly added A. 6.) have been clarified and incorporated into C.1, 3, and 17. The authority to approve compensation over the GS-15 rate for contract employees (including consultants, individual contractors and agents) remains with the DDM&S. The initial appointment of or promotion to grade GS-16 and above (to include executive level) is with the DDCI for temporary, reserve, and staff employees (including SPS).

C. 27 - the word "before" replaces the words "when contemplating".

C. 24 and ~~B~~^C. 25 remain separate -- two different means of subsidizing housing.

OGC believes the Agency needs a direct delegation from the DCI to the DDM&S and D/Pers. We question the ability of officials other than the DCI to subdelegate the authority to take certain personnel actions.

C. 6. - contracts for "services and facilities" -- this is to make the D/Pers the contracting authority with cover organizations whereby we obtain personnel slots or the use of facilities overseas.

"Acting" was added because OGC has had numerous questions over the years on the authority of a person who is "acting," and we thought this question should be laid to rest. *add "acting"*

C.1. and D.1. -- D/Pers is final authority on appointing staff personnel (under GS-16). Chiefs of station retain limited authority to appoint certain non-staff personnel (can be spelled out in regulations). D.1. -- COS can authorize payment of salaries, etc. to persons he appoints. D.4. -- COS can terminate, etc. the contracts he makes. This means a COS cannot terminate a contract for personal services signed at HQ (unless HQ so instructs).

Re suggestions:

STAT

1. adopted
2. adopted
3. "supplemental annuity proposals for non-staff personnel" -- viewed by OGC as requiring policy approval and not a matter of a legal delegation.

Re suggestions:

STAT

- 1, 5, and 8 come under "general administration"
- 2, 3, 4, and health benefits covered by a new general delegation found at C-13.
6. Covered by B.1.
7. New delegation added (see C-29). This gives DDM&S authority up to \$1,000, and he can delegate any amount he wants to D/Pers by regulations.

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9. Covered by "general administration"--the authority for this regulation is a statute and State Department regulations, which all Government employees must adhere to.

Re HR [] (contributor unknown):

OGC believes the revised regulation sent to the DCI for approval contains a broad delegation to D/Pers to administer the System. The 60 day extension for retirements is covered by C-15 and applies to CIARDS and CSR.

Re [] suggestions:

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I. adopted

II. a, c, d, and e - felt to be covered by "general administration"

b. adverse actions - prerogative of DCI; all reductions to lower grades thus far have been voluntary on the part of employees
Part E: correction made

At [] suggestion the language of C.7, 8, 11, and 12 and D.1 and 2 has been modified.

We have also added a "new" delegation found at paragraph B. This gives the DDM&S authority to authenticate, etc. all regulations except those requiring DCI (or DDCI) authentication. We have also added C.23 to cover cases where for security reasons we cannot send a claim to BEC or to an insurance carrier.

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Approved For Release 2006/12/26 : CIA-RDP84-00780R006500010004-8

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MEMORANDUM FOR: JSW

Attached is the third draft of our proposed delegation of authority to DDCI and to DDM&S (Personnel). As you can see, this package is now eight pages. There is also (1) a three page attachment which explains what has been done and which answers comments made by DDM&S offices; and, (2) a list of the individual delegations which will be rescinded when the paper is signed by the DCI.

Yesterday you indicated you wanted to author a "buck slip" sending this package to DDM&S, Pastors, D/Pers, and D/Fin.

AEG

11/9/73
(DATE)

DD/M&S Registry
File Q+M8

DD/M&S 73-3993

MEMORANDUM FOR: Acting General Counsel

SUBJECT : Delegations of Authority

REFERENCE : Routing slip dtd 28 Sep 73 to EO-DD/M&S fr
Acting GC re subj w/draft of proposed
Delegation of Authority

1. We have the following comments on the referent draft on delegations of authority. While some of our questions may be easily answered by you, we have nevertheless included them.

a. The limits of A.5., which delegate to the DDCI authority to approve initial appointments, transfers and promotions of supergrade personnel, are not implicit in B.1., 9., 13., 15., 17. and 18. On the other hand, B.16. limits DD/M&S authority in accordance with the DDCI delegation in A.6. We recognize that this may not be a significant problem since the Director should delegate some similar authorities to both the DDCI and the DD/M&S.

b. The word "contemplating" in B.17. is vague. Perhaps the meaning should and could be more specific by deleting "when contemplating" and substituting "after."

c. Since B.22. and 23. pertain to housing, I believe they could be combined.

d. The authorities delegated in section B.1. through 14. are redelegated by the DCI to the Director or Acting Director of Personnel. Perhaps it would be more logical simply to permit the DD/M&S to redelegate these authorities and to delete reference to the Director of Personnel. We are not entirely clear on the rationale used for selecting B.1. through 14. for delegation to the Director of Personnel while excluding other delegations, such as B.15.

e. It seems inappropriate to delegate B.7. to the Director of Personnel. This authority is stated in a much broader context to include other "services and facilities," not just personnel.

Administrative - Personnel Only

f. Since the designated "Acting" officer has the same authority as the officer he temporarily replaces, we have trouble with your use of specified delegations to the "Acting Director of Personnel" and "Acting DD/M&S." Such phraseology seems to be meaningless. We suggest instead that the words "Deputy" and "Associate" would be more appropriate.

g. Subparagraph C.1. authorizes chiefs of stations and bases to appoint employees. We suggest that this authority should be restricted to the DCI, DD/M&S and Director of Personnel.

2. Finally, it may be possible to reorganize and group these delegations in a more meaningful way. We will be pleased to attempt this in conjunction with Office of Personnel and your representatives.

Robert S. Wattles
Associate Deputy Director
for
Management and Services

cc: D/Pers

EO-DD/M&S: :kmg (9 Oct 73)

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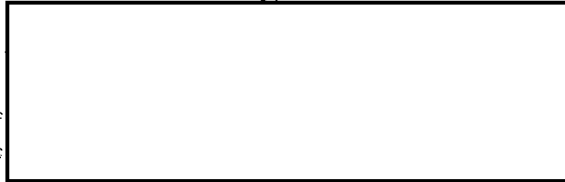
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2	<i>Mr. Hattler</i>		
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Remarks: <p>Attached is a second draft of a proposed Delegation of Authority. This paper expands the specific authority delegated to the DDCI and contains a broad delegation of authority to the DD/M&S to supervise the general administration of personnel. This draft includes the changes suggested by the Director of Personnel.</p> <p>The new items contained in this draft are:</p> <ul style="list-style-type: none"> (1) the delegation to the Director of Personnel of some of the authority delegated to the DD/M&S; and, (2) the delegations contained in paragraphs (OVER) 			
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C, D, and E. We believe these additions complete the delegation from the DCI to the DD/M&S (and Director of Personnel, etc.) of the general administration of personnel.

We would appreciate your comments by

8 October.



Acting General Counsel

cc: D/Pers
OLC

By virtue of the authority vested in me as Director of Central Intelligence and head of the Central Intelligence Agency, I direct that:

A. All authority vested in me,¹ except for any authority the delegation of which is inconsistent with applicable law,² is hereby delegated to the Deputy Director of Central Intelligence. This authority includes:

1. the authority to certify for the expenditure of funds as set forth in Section 8b of the Central Intelligence Act of 1949, as amended;

¹ The National Security Act of 1947, as amended, provides for the position of a Deputy Director of Central Intelligence, who is authorized to act for and exercise the power of the Director in his absence or disability. This legislative grant of authority has been interpreted by the Comptroller General to mean that the Deputy Director may also assist the Director in the performance of his duties, including those vested by law in the Director. Therefore, the Director may prescribe certain areas in which the Deputy Director will take final action.

² The General Counsel has taken the position that the Director should not delegate to the Deputy Director at least: (1) the authority under section 102(c) of the National Security Act of 1947, as amended, to terminate employees of the CIA when the DCI shall deem such termination necessary or advisable in the interests of the United States; (2) the authority under the Atomic Weapons Rewards Act of 1955 for the DCI to serve on the Atomic Awards Board, empowered to render awards for information concerning certain activities regarding atomic energy; and, (3) the authority under the CIA Retirement Act of 1964 for Certain Employees, as amended, to retire employees involuntarily.

2. the authority to determine that the entry of a particular alien into the U.S. for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission (Section 7 of the CIA Act of 1949, as amended);
3. the authority to certify that the alterations, improvements, and repairs on premises rented by the Agency and the rental expenses of such premises beyond the limit set by the Act of June 30, 1932, as amended, are necessary to the successful performance of the Agency's functions or to the security of its activities (Section 5(e) of the CIA Act of 1949, as amended);
4. the authority to designate couriers and guards to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security (Section 5(d) of the CIA Act of 1949, as amended);
5. the authority to approve initial appointments, transfers, and promotions of supergrade personnel;
6. the authority to approve the awarding of the Distinguished Intelligence Cross, the Distinguished Intelligence Medal, the Intelligence Star, the Intelligence Medal of Merit, and the Career Intelligence Medal;
7. the authority to grant suggestion and invention awards between \$1,000 and \$5,000;
8. the authority to grant a substitute separation compensation;
9. the authority to determine whether an individual receiving substitute separation compensation has breached his security and/or cover agreement;

No authority delegated to the Deputy Director of Central Intelligence shall be subdelegated by him.

B. There is hereby delegated to the Deputy Director for Management and Services the authority necessary to supervise the general administration of all personnel. This authority includes:

1. the authority to appoint personnel (including appointment to Career Employee status), to reassign individuals from one position or career service to another, to promote employees (including approval of quality and regular step increases), to approve separation payments, and to make the determinations and payments authorized by the Missing Persons Act, as amended;
2. the authority to pay salaries, allowances and differentials, including the authority to grant or terminate non-official cover premium pay;
3. the authority to transfer all employees and detailees from one official duty station to another and to pay or reimburse all lawful expenses incident to transfer, and the authority to approve non-standard tours of duty;
4. the authority to direct temporary duty travel and to pay or reimburse all lawful expenses incident to this travel;
5. the authority to approve travel advances;
6. the authority to execute, amend, renew and terminate contracts for employment, personal services, and independent contractors;
7. the authority to execute, amend, and terminate contracts for services and facilities directly related to the support of operations;
8. the authority to approve recommendations of the Recruitment Advertising Committee in connection with proposed advertisements or other releases, regardless of attribution to the Central Intelligence Agency, which offer employment with the Agency;

9. the authority to appoint retired Agency employees, other retired U.S. Government civilian employees, and retired members of the U.S. Armed Forces to other than temporary or reserve staff employee status, and to approve exceptions for temporary or reserve appointments beyond the age of 60;
10. the authority to approve voluntary retirements for employees between 50 and 60 years of age who are covered by the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended;
11. the authority to waive, up to 18 months, the time limitation upon the payment of travel and transportation expenses of a retiree, his dependents, and his personal effects to the place where he will reside in the U.S. or its possessions;
12. the authority to grant exceptions to travel plans calling for less than 20 workdays of leave, or leave and temporary duty, in the United States, its possessions, or the Commonwealth of Puerto Rico when the employee is returning to an assignment outside the United States immediately after home leave;
13. the authority to approve requests for extensions of scheduled or mandatory retirement dates for periods not to exceed 60 days;
14. the authority to approve the return of personnel prior to the completion of their overseas assignments;
15. the authority to approve all appointments, transfers, and promotions of specially qualified scientific personnel;
16. the authority to approve the awarding of Honor and Merit Awards, except for the Distinguished Intelligence Cross, the Distinguished Intelligence Medal, the Intelligence Star, the Intelligence Medal of Merit, and the Career Intelligence Medal;
17. the authority to grant permission for an employee to remain in the employ of the Agency when contemplating marriage to a non-U.S. citizen;

18. the authority to approve exceptions to mandatory retirement at age 60 for employees under the Civil Service Retirement System and under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended;
19. the authority to accept requests for resignation and retirement of employees who meet all the requirements for involuntary retirement and who are willing to be retired as surplus;
20. the authority to decide an employee's final appeal for settlement of claims for damages to losses of personal property, and to decide an employee's final appeal for damages and/or losses to Government-controlled property when the liability of the employee is confirmed by a Board of Survey;
21. the authority to adopt the administrative provisions (except salary) of the Foreign Service Act, as amended, or the provisions of any other applicable law when it is determined to be necessary for the proper administration of all employees of the Agency;
22. the authority to reimburse ~~an~~ employee^S for housing when determined to be in the best interests of the Agency, and to determine the per cent contribution by the Agency to this housing, and the authority to pay for housing determined to be essential to either operational or representational needs and to determine the per cent contribution of ~~the~~ employee^S to housing procured for these needs;
23. the authority to furnish employees housing and ~~the~~ ~~authority~~ to determine the percentage of the housing costs to be contributed by ~~the~~ employees;
24. the authority to approve the use of individuals as consultants and to approve compensation in excess of the maximum annual rate for grade GS-15;
25. the authority to approve the compensation for contract employees and independent contractors in excess of the maximum annual rate for grade GS-15.

The authority delegated in Sections 1 through 14 is hereby delegated to the Director or Acting Director of Personnel. The authority delegated in Sections 15 through 25 shall be exercised by the Deputy Director or Acting Deputy Director for Management and Services, and shall not be subdelegated. The authority delegated in this paragraph shall be subject to such restrictions or procedures as may be prescribed by Agency regulations.

C. There is hereby delegated to the chief of each domestic base and foreign station the authority necessary to supervise the general administration of personnel whose official duty station is located within the particular jurisdiction. This authority includes:

1. the authority to appoint, direct, and administer employees;
2. the authority to pay salaries, differentials, and allowances;
3. the authority to direct temporary duty travel and to pay or reimburse all lawful expenses incident to this travel;
4. the authority to approve travel advances; and
5. the authority to execute, amend, and terminate all contracts for personal services.

The authority delegated above is hereby delegated to chiefs of foreign bases and to a single senior subordinate within each foreign station and each foreign and domestic base who may act for the chief of station or base in the exercise of this authority. This authority shall not be subdelegated. The authority delegated in this paragraph shall be subject to such restrictions and procedures as may be prescribed by Agency regulations.

D. There is hereby delegated to the Director or Acting Director of Personnel the authority to terminate the employment of an individual within the first 12 months of his employment by the Central Intelligence Agency. This authority shall not be subdelegated.

E. There is hereby delegated to the following personnel the authority to administer the oath of office incident to entrance into the executive branch of the United States Government or any other oath required by law in connection with employment therein:

Deputy Director for Management and Services
Associate Deputy Director for Management and Services
Director of Personnel
Deputy Director of Personnel
Executive Assistant to the Director of Personnel
Chief, Recruitment Division, Office of Personnel
Chief, Contract Personnel Division, Office of Personnel
Appointment Clerks, Office of Personnel
Chiefs of Station and Base and their properly designated
Senior Administrative Officers.

The authority delegated above shall be exercised by the incumbents of these offices as of the date this delegation is effective and shall be exercised in the future by those acting for the above named personnel. This authority shall not be subdelegated.

~~TEX~~

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ALL THE OTHER PAPER

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B ~~1~~ P

IMPLIED

NOT SPECIFIED

B 17-

HERETOFORE RESERVED

TO DCI & DDCI -- ?

ALSO THE WORD
"CONTEMPLATIVE" SCREWS UP
THE MEANING --

B 18 AS APPLIED TO
CIA-RDS ?!

B 22 & 23 COMBINE ?

REDELEGATION ~~OF~~

AB7 SHOULD NOT
GO TO D/DEPS!

WHY DENY B IS TO
D/DEPS?

ACTING DDMYS SHOULD
BE ASSOCIATE - OTHERWISE
IT IS MEANINGLESS

~~OF~~ C1 - COS SHOULD
NOT APPOINT EMPLOYEES.
HE SHOULD HAVE 20046
CONTRACTING AUTHORITY
FOR PERSONNEL - IN #5

10/5

HLB.

Today, please.

J.

9-28-73

RSW

Suggest you review
carefully. It seems
okay to me and
apparently to D/Personnel
(although in checking
with him) except that
nothing is said about
the Associate DD M & S.

I believe the penultimate
sentence in para B should
provide for delegation to
the ADD M & S or "one senior
subordinate."

P

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Remarks:

The attached is to help you in reviewing the second draft of a proposed Delegation of Authority sent to you on 28 September 1973.

[Handwritten signature]

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FROM: NAME, ADDRESS AND PHONE NO.		DATE
Acting General Counsel 7D-01		10/1/73
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Upon the effective date of this Delegation of Authority (Personnel), the following delegations are rescinded:

1. Memo dtd 15 Mar 57 (DD/S 57-871) for DCI fr DD/S,
Subj: Proposed Reorganization of [redacted] and Memo STAT
dtd 11 Mar 57 fr C/FED to DCI, Same Subj;

2. Memo dtd 2 Oct 61 (ER 61-8254) for DCI fr DD/S, Subj:
Agency Overseas Living Quarters;

3. Memo dtd 29 May 62 (ER 62-3752) for Acting DCI fr Gen.
Cnsl., Subj: Delegation of Authority and Memo dtd 7 Feb 62 for DD/S
fr SSA-DD/S, Subj: Emergency Allowances and Memo dtd 28 May 62
for DD/S fr Chief, Task Force W, Subj: Allowances and Emoluments
for Personnel Assigned to JMWAVE, [redacted] and Supporting Agency
Components at the Same Geographic Area; STAT

4. Memo dtd 30 June 64 (DD/S 64-3327) for DDCI fr DD/S,
Subj: JMWAVE Area Housing Benefits Program;

5. Memo dtd 2 Nov 64 (DD/S 64-5691) for Acting DCI fr OGC
through DD/S, Subj: Delegation of Authority to Administer the Oath
of Office of New Employees;

6. Memo dtd 23 Aug 67 (OLC 67-0175) for DCI fr OGC/OLC,
Subj: Legislative and Administrative Authority for Payment of Travel
Expenses, Allowances, and Other Fringe Benefits to Agency Employees
and Memo dtd 10 Oct 67 for DD/S fr Ex-Dir, Subj: Administrative
Authorities;

7. Memo dtd 18 June 68 (DD/S 68-3100) for DD/S fr D/Per,
Subj: Request for Delegation of Authority (approve exceptions up to
18 months for CIARDS travel and transportation, etc.);

8. Memo dtd 27 April 71 (unnumbered) for D/Per fr DD/S,
Subj: Delegation of Authority (exceptions to 20 workdays of leave or
leave and temporary duty in U.S., etc.);

9. Memo dtd 21 April 71 (unnumbered) for Ex-Dir-Comp fr DD/S, Subj: Administrative Authorities (same benefits CSR as CIARDS);

10. Memo dtd 27 May 68 (ER 68-2631) for DCI fr D/Per, Subj: Retirement Extension;

11. Memo dtd 18 May 71 (DD/S 71-196?) for DD/S fr Ex-Dir-Comp, Subj: Recruitment Advertising Committee and Memo dtd 20 May 71 (DD/S 71-2005) for D/Per fr DD/S, Same Subject;

12. Memo dtd 1 June 71 (DD/S 71-2215) for Ex-Dir-Comp fr DD/P, Subj: Approval of Return of Personnel from Overseas Posts Prior to Completion of Tour of Duty;

13. Memo dtd 6 Oct 71 (ER 71-4550) for D/Per fr DCI, Subj: Delegation of Authority (termination within first twelve months of employment);

14. Memo dtd 29 June 63 (ER 63-5277) for Ex-Dir fr DDCI, Subj: Delegation of Authority (expenses incurred entertainment of U.S. Government employees exclusively).

The new Delegation of Authority (Personnel) will also have the effect of superseding most of the Director of Central Intelligence Delegation of Authority, dtd 1 Dec 50, as amended by Notice No. 1-170-1, dtd 18 Jan 54, Subj: Organization and Functions, Office of Personnel, Delegation of Authority. Until the other delegations contained in the 1950 paper are revised and delegated to the DD/M&S (and to the D/Finance and D/Logistics), the 1950 paper cannot be rescinded. The new Delegation of Authority (Personnel) will rescind Notice No. 1-170-1, dtd 18 Jan 54 which dealt only with personnel authority.

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